

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Dillon Bezehertny	Team: Squad #11	CCRB Case #: 202205666	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 08/24/2022 8:11 PM	Location of Incident: 1400 Bergen Street	18 Mo. SOL 2/24/2024	Precinct: 77		
Date/Time CV Reported Sat, 08/27/2022 12:50 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 08/27/2022 12:50 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Lalchan Singh	01528	955499	PSA 2
2. LT Patrick Lynch	00000	942092	PSA 2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Aurie Steiger	00892	966869	PSA 2
2. PO Gavier Almanzar	09934	956380	PSA 2
3. PO Nadeem Khan	25109	967945	PSA 2
4. PO Igrich Vidal	25544	962857	PSA 2
5. PO John Felsberg	04064	954801	PSA 2

Officer(s)	Allegation	Investigator Recommendation
A.SGT Lalchan Singh	Abuse: Sergeant Lalchan Singh searched the vehicle in which § 87(2)(b) was an occupant.	
B.LT Patrick Lynch	Abuse: Lieutenant Patrick Lynch searched the vehicle in which § 87(2)(b) was an occupant.	
C.SGT Lalchan Singh	Abuse: Sergeant Lalchan Singh issued an unlawful summons to § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint online with CCRB on August 27, 2022.

At approximately 8 p.m. on August 24, 2022, § 87(2)(b) and his friend, § 87(2)(b) were sitting in § 87(2)(b) car, which was parked but still running in a NYCHA parking lot near 1400 Bergen Street in Brooklyn. § 87(2)(b) lit a marijuana cigarette, at which point officers approached. § 87(2)(b) and § 87(2)(b) were asked to exit the vehicle and stand at its rear. Sergeant Lalchan Singh and Lieutenant Patrick Lynch, both of Police Service Area 3, performed a limited search of the front passenger-side and driver-side respectively of § 87(2)(b) vehicle in search of the vehicle's registration (**Allegation A: Abuse of Authority**, § 87(2)(g) **Allegation B: Abuse of Authority**, § 87(2)(g) At the end of the interaction, Sgt. Singh instructed Police Officer Aurie Steiger, also of Police Service Area 3, to issue § 87(2)(b) a criminal court summons for disorderly conduct (**Allegation C: Abuse of Authority**, § 87(2)(g)

§ 87(2)(b) received criminal court summons § 87(2)(b) for violation of subsection one of New York Penal Law Section 240.20. § 87(2)(b) received criminal court summons § 87(2)(b) for operating a motor vehicle under the influence and criminal court summons § 87(2)(b) for operation of a motor vehicle while registration is suspended or revoked.

On September 16, 2022, the New York City Department Legal Bureau sent body-worn camera videos for Lt. Lynch, Sgt. Singh, PO Steiger, Police Officer Almanzar, Police Officer Vidal, Police Officer Khan, and Police Officer Felsberg. Sgt. Singh had two BWC videos for this incident given his camera was erroneously deactivated then immediately reactivated.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Lalchan Singh searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: Lieutenant Patrick Lynch searched the vehicle in which § 87(2)(b) was an occupant.

Lt. Lynch's BWC (**Board Review 01**) starts at 8:11:18. At durational timestamp 02:27, Lt. Lynch tells PO Vidal that § 87(2)(b) license plate "comes back to a Honda." At 03:14, it appears § 87(2)(b) vehicle is a Nissan. Lt. Lynch says, "Alright, let's have him get out." At 03:27, Lt. Lynch tells § 87(2)(b) to stand by the trunk of his vehicle. Lt. Lynch asks § 87(2)(b) "Whose car is this?" § 87(2)(b) tells Lt. Lynch, "It's my shawty's car." Lt. Lynch asks § 87(2)(b) if there is anything else in the car that he should not have, to which he replies, "No, it's just the weed." At 04:09, Lt. Lynch approaches the front driver-side door of § 87(2)(b) vehicle, which is ajar. At 04:22, Lt. Lynch bends over and appears to observe a sticker posted on the metal frame of the driver-side door. At 05:48, Lt. Lynch returns to an upright, standing position. He did not cross the plane into the vehicle at any point while he was crouching previously. Lt. Lynch asks § 87(2)(b) "This is your girlfriend's car?" § 87(2)(b) confirms. Lt. Lynch tells him that the plates do not match the vehicle, asking if the girlfriend removed the plates because the insurance is suspended. § 87(2)(b) says yes. Lt. Lynch asks if § 87(2)(b) knows if the vehicle registration is in the vehicle. § 87(2)(b) tells him, "Not sure." At 06:04, Lt. Lynch returns to the front driver-side door, which is still ajar. Lt. Lynch enters the front driver-side area of the vehicle looking in the center console. Sgt. Singh appears to go through the glove compartment. At 06:25, Sgt. Singh says, "We got it right here," removing a paper from the glove box of the car. At 06:38, Lt. Lynch exits the vehicle.

Sgt. Singh's second BWC video (**Board Review 02**) starts at 8:16:24. At durational timestamp 01:03, Sgt. Singh approaches the front passenger-side door, which is ajar, and Lt. Lynch approaches the front driver-side door, which is also ajar. Lt. Lynch bends at the waist and leans into the vehicle such that he is past the threshold. Immediately following Lt. Lynch, Sgt. Singh does the same for the front passenger-side of the vehicle. Sgt. Singh opens the glove box. Audio indicates that someone is rummaging through objects, though Sgt. Singh's BWC does not capture video of whatever action is producing the rummaging noise. At 02:20, Sgt. Singh returns to an upright, standing position, leaning back out of the interior of the vehicle.

§ 87(2)(b) was not interviewed given he failed to appear for two CCRB interviews.

§ 87(2)(b) (**Board Review 03**) stated, at some point, Sgt. Singh searched the passenger-side of § 87(2)(b) car, including the glove compartment and the area beneath the passenger seat. Around the same time, Lt. Lynch searched the driver-side of § 87(2)(b) car. § 87(2)(b) did not hear officers ask for permission to search § 87(2)(b) vehicle. § 87(2)(b) did not hear § 87(2)(b) tell officers not to search his vehicle.

Lt. Lynch (**Board Review 04**) asked § 87(2)(b) if there was registration in the vehicle, to which § 87(2)(b) replied he was unsure. Lt. Lynch and Sgt. Singh did a limited search of the front of § 87(2)(b) vehicle to look for any vehicle registration documents to ensure the vehicle, or the plates affixed to the vehicle, was not stolen. Lt. Lynch searched the center console, the visor, the door, and the floor of the front driver-side of § 87(2)(b) vehicle. Lt. Lynch did not ask for § 87(2)(b) permission to search the front of the vehicle prior to doing so, stating that, for officer safety, civilians are not permitted to reenter their vehicles once asked to step out unless the investigation officers are conducting has concluded. Sgt. Singh searched the front passenger-side of the vehicle. At some point, Sgt. Singh removed registration for § 87(2)(b) vehicle from the glovebox. Officers were never able to ascertain that the plates affixed to the vehicle were voluntarily lent to § 87(2)(b) however Lt. Lynch's computer inquiries showed the plates did not register as lost or stolen either, so there was no indication that the plates were illegally possessed. § 87(2)(b) was issued a summons for smoking marijuana in a vehicle and for suspended registration.

Sgt. Singh (**Board Review 05**) recalled that § 87(2)(b) was asked for his registration, at which time he told officers he was not sure if he had the vehicle's registration in the vehicle. Lt. Lynch and Sgt. Singh each performed a limited search of § 87(2)(b) car; Lt. Lynch the front driver-side, Sgt. Singh the front passenger-side. Sgt. Singh stated that he only went into § 87(2)(b) car to retrieve documentation – the registration – for the vehicle. § 87(2)(b) was issued a summons for smoking marijuana in his vehicle and for operating a vehicle with suspended registration.

In People v Pryor, the Court ruled that officers' search of the subject's vehicle for the vehicle's registration was reasonable after the subject did not provide the registration when officers gave the subject the opportunity to do so *People v Pryor*, 26 Misc. 3d 997 (**Board Review 06**).

It is undisputed that Lt. Lynch and Sgt. Singh searched § 87(2)(b) vehicle for the sole purpose of obtaining his vehicle registration to further their investigation regarding ownership of the vehicle.

§ 87(2)(g)

§ 87(2)(b). Officers' testimony, corroborated by BWC that captures the incident in its entirety, stated that Lt. Lynch and Sgt. Singh conducted a limited search of areas such as the glove box, the center console, the visor of the driver's seat § 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: Sergeant Lalchan Singh issued an unlawful summons to

§ 87(2)(b)

Sgt. Singh's first BWC video (**Board Review 07**) starts at 8:11:19 and ends at 8:16:23. At 03:18, Sgt. Singh asks § 87(2)(b) to step out of the vehicle. § 87(2)(b) remains seated in the passenger seat, asking Sgt. Singh why he has to step out of the car. Sgt. Singh asks § 87(2)(b) to step out of the vehicle nine times in total before he begins to exit the car. § 87(2)(b) is smiling as he exits the vehicle. At 04:16, Sgt. Singh tells § 87(2)(b) and § 87(2)(b) "Sit on the car, facing it. Put your back on the car and stay off your phone." § 87(2)(b) complies, § 87(2)(b) does not, continuing to look down at his cell phone screen. At 04:22, Sgt. Singh approaches § 87(2)(b) stating, "If I have to tell you again, I'm going to put you in handcuffs." § 87(2)(b) says that Sgt. Singh cannot put him in handcuffs. Immediately following that statement, BWC becomes obscured. It appears as though there is a struggle between Sgt. Singh and § 87(2)(b). At 04:26, Sgt. Singh's BWC falls off his person onto the ground. Sgt. Singh tells § 87(2)(b) "Give me your hands; stop tensing up. You wanna do all this? Stop moving; give me your hands." At 04:43, it sounds as if handcuffs have been secured on § 87(2)(b). Sgt. Singh's first BWC video shows that this incident did not attract the attention of a crowd.

At 00:06 of Sgt. Singh's second BWC video (**Board Review 02**), audio begins, and Sgt. Singh reaffixes his BWC to his person. At 00:23, Sgt. Singh says he should let NYCHA know about the incident, stating that § 87(2)(b) would be out of a job. At 03:29, Sgt. Singh says, "And the passenger will get a nice little Dis-Con." At 07:10, PO Steiger asks Sgt. Singh, "Just the Dis-Con on my end?" Sgt. Singh tells PO Steiger that he is only to write the Dis-Con summons. Sgt. Singh's second BWC video is consistent with his first, showing that this incident did not attract the attention of a crowd.

§ 87(2)(b) (**Board Review 03**) stated that at no point in the interaction did he make any statements that were threatening or violent. § 87(2)(b) stated that he probably did use profanity during the incident but that he was calm throughout the encounter. Sgt. Singh asked § 87(2)(b) to step out of the vehicle, opened the passenger-side door using the exterior door handle, then Sgt. Singh grabbed § 87(2)(b) right arm, at which time § 87(2)(b) voluntarily exited the vehicle.

Sgt. Singh (**Board Review 05**) asked § 87(2)(b) if he had any business being in the NYCHA parking lot and if he lived in the Albany Houses development. § 87(2)(b) was "evasive," providing limited information or declining to provide any information at all. Sgt. Singh described § 87(2)(b) demeanor thusly: "he's hostile, he's combative verbally with us, evasive, doesn't answer any questions, he feels as if he knows what's... what he's doing is correct even though it's wrong." Sgt. Singh clarified that by hostile he meant § 87(2)(b) was "very angry" and by combative he meant § 87(2)(b) was refusing to provide information. It took "a little bit of effort" for Sgt. Singh to get § 87(2)(b) out of the vehicle. Sgt. Singh asked § 87(2)(b) to exit § 87(2)(b) vehicle multiple times. After an unknown period of time, Sgt. Singh "guided § 87(2)(b) out" by grabbing § 87(2)(b) hand and pulling him out of the vehicle. § 87(2)(b) did not offer any physical resistance to Sgt. Singh as he was guided out of the vehicle, stepping out voluntarily as Sgt. Singh also pulled him out. Sgt. Singh stated, "It wasn't a struggle." Sgt. Singh stated that, prior to exiting the vehicle, he did not recall § 87(2)(b) making any verbal threats or physical movements that posed safety concerns to officers. Sgt. Singh stated that PO Steiger prepared the

disorderly conduct summons for § 87(2)(b) based on Sgt. Singh's orders. Sgt. Singh stated that his decision to issue § 87(2)(b) a criminal summons for disorderly conduct was based on § 87(2)(b) "unwillingness to cooperate... evasive questioning, we had no idea who he was...." Sgt. Singh confirmed that other than the aforementioned reasons, there was nothing else regarding § 87(2)(b) conduct that constituted violent, threatening, or tumultuous behavior. Sgt. Singh did not recall receiving any instructions from Lt. Lynch regarding any summonses to be issued on scene.

Lt. Lynch (**Board Review 04**) did not recall any conversation with Sgt. Singh or any other officer regarding a disorderly conduct summons for § 87(2)(b). Lt. Lynch stated that nothing he was able to hear or see of § 87(2)(b) conduct rose to the level of disorderly conduct in his opinion. Lt. Lynch began reviewing Sgt. Singh's second body-worn camera video from durational timestamp 3:20 until 3:33. Lt. Lynch acknowledged that Sgt. Singh states, "And the passenger gets a nice little Dis-Con," though Lt. Lynch did not recall hearing Sgt. Singh say that during the incident.

§ 87(2)(b) was issued criminal court summons § 87(2)(b) for violation of subsection one, defendant engages in violent, threatening, or tumultuous behavior, of Section 240.20 of New York State Penal Law (**Board Review 09**).

§ 87(2)(b) [§ 86(1)(3)&(4)] [§ 87(2)(c)]

A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, he engages in fighting or in violent, tumultuous, or threatening behavior *NYS Penal Law § 240.20 (Board Review 09)*. In *People v. Baker*, the Court held that a finding of disorderly conduct requires a public harm element...that the defendant's disruptive statements and behavior were of a public rather than an individual dimension. *People v Baker, 20 N.Y.3d 354 (Board Review 12)*.

It is undisputed that § 87(2)(b) received a criminal court summons for disorderly conduct at the direction of Sgt. Singh. What remains is to analyze whether issuing this summons was proper. BWC, which is comprehensive, shows that a crowd neither forms nor observes this incident, § 87(2)(b) did not engage in any violent or tumultuous behavior, rather he simply refused to cooperate with the officers. § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

§ 87(2)(b)

Sgt. Singh has been a member of service for nine years and has been a subject in five CCRB complaints and eleven allegations, none of which have been substantiated (**Board Review 14**).

Lt. Lynch has been a member of service for sixteen years and has been a subject in two CCRB complaints and three allegations, none of which have been substantiated (**Board Review 15**).

Mediation, Civil, and Criminal Histories

§ 87(2)(b) declined to mediate this complaint.

As of December 7, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this incident (**Board Review 16**).

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 12

Investigator:	<u>Dillon Bezehertny</u>	<u>Investigator Bezehertny</u>	<u>10/12/2023</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Edwin Pena</u>	<u>IM Edwin Pena</u>	<u>01/13/2023</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date